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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO
10/622,594	07/18/2003	Ralf Wichmann	07244-00135-US	4310
23416 7	590 07/07/2004		EXAMINER	
CONNOLLY BOVE LODGE & HUTZ, LLP			LE, HOA VAN	
P O BOX 2207 WILMINGTON, DE 19899		ART UNIT	PAPER NUMBER	
	•		1752	

DATE MAILED: 07/07/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary Display						
Examiner Hoa V. Le "The MAILING DATE of this communication appears on the cover sheet with the correspondence address— Period for Reply A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION. Extension of time may be available under the provisions of 37 CPR 1.105(n). In no event, however, may a reply be timely filed If the period for reply a specified above, the maximum databutery period will not be added by minimum of thing (20) days as will be considered timely. If the period for reply a specified above, the maximum databutery period will capier SX (0) MON1 HS from the mailing date of this communication. If the period for reply a specified above, the maximum databutery period will capier SX (0) MON1 HS from the mailing date of this communication. Any reply received by the Office idle than Priore mailine after the mailing date of this communication, even if timely filled, may reduce any search patient term adjustment. See 37 CPR 1.704(b). Status 1) Responsive to communication(s) filled on		Application No.	Applicant(s)			
Hoa V. Le		10/622,594	WICHMANN ET AL.			
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Application/Control Number: 10/622,594

Art Unit: 1752

This application is up for consideration.

- A. Telephone calls were made to Mr. Ashley I. Pezzner on 21 and 29 June 2004 to request an oral election. Mr. Pezzner requests a written Office action since his clients are overseas.
- B. Restriction to one of the following inventions is required under 35 U.S.C. 121:
 - Claims 1-4, drawn to a color photographic developing concentrate, classified in class 430, at least subclass 466.
 - II. Claims 5-8, drawn to a method for using read-to-use color photographic developing solution prepared from the concentrate, process of using-by-making process, classified in class 430, at least subclass 434.

Inventions of Group I and Group II are related as material and process of use. The inventions can be shown to be distinct if either or both of the following can be shown:(1) the process for using the material as claimed can be practiced with another materially different material or (2) the material as claimed can be used in a materially different process of using that material (MPEP § 806.05(h)). In the instant case, the process for developing an exposed color photographic material as claimed can be practiced with another materially different material such as any one of those commercially available ready-to-use color photographic developers. Applicants should show or provide an evidence to the contrary. In the absence of convincing evidence, the restriction would not be removed.

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Because these inventions are distinct for the reasons given above and have acquired the separate status and searches in the art and can be supported the separate patents as divided by applicants and have no evidence of the record that are not required the separate consideration and search since they are the obvious variants because the prior art being applied to one of them would be sufficient against all inventions, restriction for examination purposes as indicated is proper. Applicant should show or provide an evidence to the contrary. In the absence of convincing evidence, the restriction would not be removed.

- C An additional consideration or search for more than one invention or subclass in the art is burdensome. Applicant should show or provide an evidence to the contrary. In the absence of convincing evidence, the restriction would not be removed.
- D. However any process claim is permitted to be rejoined with a material claim provided (a) that the material claim is allowable and (b) the process claim must be contained all of the limitations of the allowable material claim in accordance with the authority stated in In re Ochiai, 37 USPQ2d 1127 or In re Brouwer, 37 USPQ2d 1663 and MPEP 821.04.
- E. Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

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F. Other issues have not been considered until a proper election is made and resolved.

G. Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Hoa V. Le whose telephone number is 571-272-1332.

The examiner can normally be reached from 6:30 AM to 4:30 PM on Monday though Thursday

and about the same time of most Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Cynthia Kelley can be reached on 571-272-1526.

Applicants may file a paper by (1) fax with a central facsimile receiving number 703-

872-9306.

Information regarding the status of an application may be obtained from the Patent Application

Information Retrieval (PAIR) system. Status information for published applications may be

obtained from either Private PAIR or Public PAIR. Status information for unpublished

applications is available through Private PAIR only. For more information about the PAIR

system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR

system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Hoa V. Le

Primary Examiner

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HVL 06 July 2004 HOA VAN LE PRIMARY EXAMINER

Hoa Van Le